

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

William C. Tindal, Special Referee

Case No. 2008-CP-29-1084

RECEIVED

NOV 15 2013

COURT OF APPEALS

Ned Gregory, Jr.,Plaintiff/Respondent,

v.

Howell Jackson Gregory
and the Gregory Company,
Inc.,Defendants/Appellants.

RETURN TO PETITION FOR SUPERSEDEAS

H. Jackson Gregory
Post Office Box 7111
Myrtle Beach, South Carolina 29572-0006
(843) 222- 4800
Pro Se Appellant

James T. Irvin, Jr., Esquire
Irvin Law Firm, LLC
Post Office Box 2677
Myrtle Beach, South Carolina 29578-2677
(843) 222-3228
Attorney for The Gregory Company, Inc., Appellant

Palmer Freeman
Post Office Box 8024
Columbia, South Carolina 29202
(803) 799-9400
Attorney for Ned Gregory Jr., Respondent

TO: THE HONORABLE CHIEF JUDGE AND ASSOCIATE JUSTICES OF THE COURT OF APPEALS OF SOUTH CAROLINA

The Appellants' request to stay the sale of real property and waive the bond requirement should be denied for reasons given below.

BACKGROUND:

In 2006, Ned Gregory obtained two judgments against H. Jackson Gregory. In 2008, Ned Gregory filed this case alleging fraudulent conveyance of assets to defeat his judgments. (One of Respondent's judgments is from Horry County. Appellants have also filed an appeal in that case. *See, Ned Gregory, Jr. v. Howell Jackson Gregory* (Case No. 2002-CP-26-1706, Notice of Appeal dated October 29, 2013).

On April 30, 2013, the Special Referee found Appellant H. Jackson Gregory fraudulently conveyed ownership rights in real property from himself to The Gregory Company, Inc. The Master ordered the property be sold and the proceeds be applied to satisfy Respondent's two judgments. (Copy of the Order filed by Appellants.)

On October 31, 2013, the Special Referee ruled on Appellants' post-trial Rule 59 motion. He amended his initial order to correct the amount of Respondent's Horry County judgment and denied the rest of Appellants' motion. In the same order, the Referee set December 2, 2013 as the auction date of the property. (Copy of the Order filed by Appellants.)

Appellants filed no other motion or application with the Special Referee before they filed this Petition for Supersedeas.

THE APPLICATION SHOULD BE DENIED

The Appellants' Supersedeas application should be dismissed for the following reasons:

1. The Appellants did not ask the Special Referee to stay the sale. A stay request must be first made to the lower court, Rule 241(d), SCRAP, unless there are extraordinary circumstances. Appellants mention no extraordinary circumstances that made it

impracticable to first seek relief from the Special Master. *See, e.g., Carolina Water Service Inc. v. Lexington Joint Municipal Water and Sewer Commission*, 367 S.C. 141, 625 S.E.2d 227 (S.C. Ct. App. 2005, “The Circuit Court has discretion whether to grant a stay of a matter pending before the Court. (Citations omitted)”, 625 S.E.2d 227 at 230).

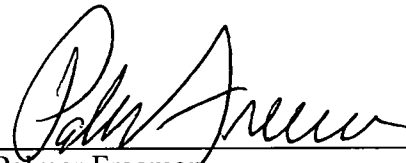
2. The Appellants have not sought to have a bond set nor offered to post a surety bond as required by Section 18-9-170, S.C. Code of Laws, Rule 241 (b)(4), SCRAP.

3. This Court cannot dispense with the surety bond requirement. Only the court below may do so. Section 18-9-190, S.C. Code of Laws, Rule 241 (b)(4), SCRAP.

4. The Petition for Supersedeas and the Appellants’ affidavit do not address why a stay of the sale is necessary.

Wherefore, the Respondent asks the Court to deny the Appellants’ Petition for Supersedeas.

Respectfully submitted,



Palmer Freeman
P. O. Box 8024
Columbia, South Carolina 29201
(803) 799-9400
Attorney for Ned Gregory, Respondent

November 15 , 2013

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

NOV 15 2013

COURT of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

William C. Tindal, Special Referee

Case No. 2008-CP-29-1084

Ned Gregory, Jr.,Plaintiff/Respondent,

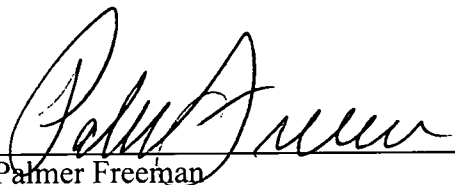
v.

Howell Jackson Gregory
and the Gregory Company,
Inc.,Defendants/Appellants.

PROOF OF SERVICE

I certify that I have served the Return to Petition for Supersedeas on Howell Jackson Gregory by depositing a copy of it in the United States Mail, postage prepaid, on November 15, 2013, addressed to Howell Jackson Gregory, Post Office Box 7111, Myrtle Beach, SC 29572-0006 and on The Gregory Company, Inc., by depositing a copy of it in the United States Mail, postage prepaid, on November 15, 2013, addressed to its attorney of record, James T. Irvin, Jr., Esquire, Irvin Law Firm, LLC, Post Office Box 2677, Myrtle Beach, SC 29578-2677.

November 15, 2013


Palmer Freeman
P. O. Box 8024
Columbia, South Carolina 29201
(803) 799-9400
Attorney for Respondent

PALMER FREEMAN
ATTORNEY
POST OFFICE BOX 8024
COLUMBIA, SC 29202

TEL. 803 799 9400
FAX 803 376 5084

RECEIVED
NOV 15 2013

November 15, 2013

COURT OF APPEALS

HAND-DELIVERED

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Re: Ned Gregory, Jr. vs. Howell Jackson Gregory and The Gregory Company, Inc.
Horry County Case No. 2008-CP-29-1084

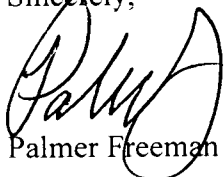
Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondent's Return to Petition for Supersedeas and Proof of Service in the above-referenced matter. If time permits, I would appreciate your returning a file-stamped copy of the Return to my runner. Otherwise, please return it to my office in the stamped, self-addressed envelope provided.

Thank you for your assistance in this matter. Should you have any questions or require anything further, please do not hesitate to contact me.

With highest regards, I am,

Sincerely,



Palmer Freeman

PF/cbd

Enclosures

cc H. Jackson Gregory
James T. Irvin, Jr., Esquire
Ned Gregory, Jr.